

TENNESSEE REAL ESTATE COMMISSION

MINUTES

May 2, 2007

The Tennessee Real Estate Commission convened on May 2, 2007, in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following **Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Adren Greene, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, and Commissioner David Flitcroft. Commissioner Isaac Northern was absent. Others present: Donna Hancock, Interim Executive Director, Ryan Bane, staff attorney, and Kelly McDermott, Administrative Secretary.**

The first order of business was the approval of the Agenda (**Exhibit 1**). Chairman Haynes called for the adoption of the agenda and asked for any additions or changes to the agenda. Commissioner Stephenson wished to add to the agenda a discussion of the ARELLO conference he attended with Chairman Haynes in April. Commissioner Flitcroft wished to add to the agenda a discussion regarding Barney Thompson, recently deceased, Executive Vice President and CEO of the Knoxville Area Association of Realtors. **Commissioner Collins made a motion to approve the agenda with changes for May 2007 as presented; seconded by Commissioner Tate; Motion Carried.**

The next order of business was the approval of the minutes from April 2007 (**Exhibit 2**). **Commissioner Alexander made a motion to approve the minutes from April 2007 as presented; seconded by Commissioner Greene. Motion Carried**

Chairman Haynes introduced Ms. Leslie A. Newman, Commissioner of the Department of Commerce & Insurance. Commissioner Newman spoke briefly of travel policies and meetings approved under the Education and Recovery Fund.

Informal Applicant Conferences

John Scott Martins, applicant by reciprocity – Mr. Martins appeared before the Commission to request licensure as a broker by reciprocity with Florida. Mr. Martins disclosed to the Commission three separate criminal convictions for distribution of a controlled substance in 1978, 1979, and 1981. **Commissioner Alexander made a motion to approve the license with the limitation that his license be issued as initially retired and only to be made active upon Mr. Martins moving to Tennessee; seconded by Commissioner Greene; Motion Carried.**

Paul S. Rampon, applicant – Mr. Rampon appeared before the Commission with his Principal Broker, Earl Young, to request licensure approval. Mr. Rampon disclosed to the Commission a shoplifting charge in 1996. **Commissioner Greene made a motion to approve; seconded by Commissioner Collins; Motion Carried.**

Richard A. Sarta, applicant – Mr. Sarta appeared before the Commission to request licensure approval by limited reciprocity with Florida. Mr. Sarta appeared with character

witness, Mr. Anthony House. Mr. Sarta disclosed a criminal conviction of distributing cocaine to an undercover agent. Mr. Sarta also disclosed an administrative complaint from 2000 by the Florida Real Estate Appraisers Board. Mr. House spoke on behalf of Mr. Sarta's professionalism and character. **Commissioner Alexander made a motion to deny; seconded by Commissioner Cunningham; Chairman Haynes called for a show of hands on the vote; Commissioners Flitcroft, Cunningham, Stephenson, and Alexander voted to deny licensure; Commissioners Tate, Collins, and Greene voted to approve licensure; Vote 4-3; Motion Carried.**

Howard "Eddie" Walker, applicant – Mr. Walker appeared before the Commission with Principal Broker, Pam Johnson, to request licensure approval for an Affiliate Broker license. Mr. Walker is also requesting an exception to the 50-mile rule. Mr. Walker intends to move to Gatlinburg once he receives his license. Mr. Walker disclosed to the Commission charges of simple assault in 1987, perjury in 1990, and a worthless check charge in 2003. **Commissioner Alexander made a motion to approve licensure and to grant an exception to the 50-mile rule; seconded by Commissioner Stephenson; a roll call was conducted by Ms. Hancock with the results being: Commissioners Greene, Flitcroft, Collins, Stephenson, and Alexander voted to approve; Commissioner Tate and Chairman Haynes voted to deny; Commissioner Cunningham abstained; Motion Carried.**

Licensee/Applicant Requests

Grady Guntharp, expired licensee, 261557 – Mr. Guntharp appeared before the Commission to request the Commission consider reinstating his Tennessee real estate license (expired 12/31/2000). While licensed in Tennessee, Mr. Guntharp reciprocated with Alabama. He began working full-time in Alabama and allowed his Tennessee broker license to expire. Since he has never been without a valid real estate license, Mr. Guntharp requested the Commission reinstate his license.

Commissioner Collins made a motion to grant the broker license once Mr. Guntharp completes his required education of 120 hours and passes the broker examination with the exception that he will not have to complete the three years as an affiliate broker under the supervision of a Principal Broker; seconded by Commissioner Stephenson; Motion Carried.

Melissa Hall, applicant – Ms. Hall, an applicant for an Affiliate Broker license, requested that the Commission consider her request for a waiver of the 50-mile rule. **Commissioner Stephenson made a motion to defer her request until after the Rule Making Hearing on May 3, 2007; seconded by Commissioner Alexander; Motion Carried.**

Cynthia W. Upchurch, applicant – Ms. Upchurch, an applicant for a Timeshare Salesperson license, requested that the Commission consider her request for a waiver of the 50-mile rule. **Commissioner Stephenson made a motion to defer her request until after the Rule Making Hearing on May 3, 2007; seconded by Commissioner Alexander; Motion Carried.**

Robert Latella, applicant – Mr. Latella, an applicant for a Timeshare Salesperson license, requested that the Commission consider his request for a waiver of the 50-mile

rule. **Commissioner Stephenson made a motion to defer his request until after the Rule Making Hearing on May 3, 2007; seconded by Commissioner Alexander; Motion Carried.**

Shanna Alder, applicant - Ms. Alder, an applicant for a Broker license, requested that the Commission consider her request for a waiver of the 50-mile rule. **Commissioner Stephenson made a motion to defer her request until after the Rule Making Hearing on May 3, 2007; seconded by Commissioner Alexander; Motion Carried.**

Maxie L. Jones, retired licensee, 265191 – Mr. Jones requested the Commission consider he be allowed to sit for the broker examination. There was a hold placed on his license because he never answered a complaint from TREC in 2002. **Commissioner Cunningham made a motion to deny his request to sit for the broker examination; seconded by Commissioner Collins; Motion Carried.**

Adoption of Policy Statement on Reinstatement

Interim Executive Director, Donna Hancock, presented the Policy Statement for Reinstatement to the Commission. Ms. Hancock stated she would like for the Commission to adopt the policy as an ongoing policy by changing the wording from “after April 30, 2006” to read “after 120 days from expiration” so it can be applied to future violators under the staggered renewal cycle. **Commissioner Collins made a motion that the policy be amended to read that the Commission will assess a penalty of \$50.00 per month per delinquency for the first 120 days after expiration and assess a penalty of \$100.00 per month per delinquency after 120 days from expiration, up to 365 days from expiration; seconded by Commissioner Stephenson; Motion Carried.** Ms. Hancock requested that staff attorney Ryan Bane draft the policy as a legal document to be signed by Chairman Haynes at the next meeting.

Executive Director Position – Discussion of Applicants

Chairman Haynes stated that he has requested of the Assistant Commissioner’s office copies of all applications and/or resumes submitted for the Executive Director position. They are to be given to him and Commissioner Cunningham for review prior to the next meeting. Chairman Haynes and Commissioner Cunningham will choose the top ten candidates and present those applicants to the rest of the Commission. Ryan Bane, staff attorney, advised the Chairman that any discussion of the applicants must be open to the public and noticed.

Discussion of Background Checks on Applicants

Chairman Haynes stated that while at the ARELLO conference in April, he spoke with representatives from other states regarding their state’s policy on background checks for applicants. Chairman Haynes further stated that he received feedback from those representatives that the burden of obtaining a background check should fall on the applicant. Chairman Haynes made the recommendation that applicants for a real estate license should provide the background check to TREC at the time of application. Upon discussion, Chairman Haynes stated that he believes that anyone who discloses a

felony should provide a background report to TREC. **Commissioner Collins made a motion to accept Chairman Haynes recommendation that any applicant for licensure or reinstatement who has disclosed a felony be required to obtain a background check; seconded by Commissioner Tate; Motion Carried.** Ryan Bane, staff attorney, asked the Commission to clarify the motion. Mr. Bane stated that the Commission would have to go into a Rule Making Hearing in order to implement the policy. Chairman Haynes asked him to investigate and report back to the Commission regarding the necessity of holding a Rule Making Hearing regarding requiring background checks.

Legal Report, Ryan Bane, Staff Attorney (Exhibit 3)

- **2007047491 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander, Motion Carried.**
- **2007048041 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Greene; Motion Carried.**
- **2007047781 – Commission Stephenson made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2006045331 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.**
- **2006040483 & 2006040482 & 2006040481 – Commissioner Collins made a motion to close pending the outcome of litigation; seconded by Commissioner Tate; Motion Carried.**
- **2006044081 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Stephenson; Motion Carried.**
- **2007051663 & 2007051662 & 2007051661 – Commissioner Tate made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2006045111 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Tate; Motion Carried.**
- **2006038801 – Commissioner Greene made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.**
- **2006035891 – Commissioner Greene made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2007048201 – Commissioner Greene made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2006017751 – Commissioner Greene made a motion to dismiss; seconded by Commissioner Tate; Motion Carried.**
- **2007055591 – Chairman Haynes made a motion to dismiss; seconded by Commissioner Tate; Motion Carried.**
- **2007055252 and 2007055251 – Chairman Haynes made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2007054622 and 2007054621 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2007051872 and 2007051871 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.**
- **2007057331 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Tate; Motion Carried.**
- **2007055921 – Commissioner Cunningham made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.**

- 2007054371 and 2007054372 – Commissioner Flitcroft made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.
- 2007054851 – Commissioner Greene made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.
- 2007054841 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Alexander; Motion Carried.
- 2007054741 – Commissioner Alexander abstained as he was familiar with the case and requested the complaint be deferred until June after a compliance audit is performed by an auditor. Commissioner Stephenson made a motion to defer to the June Commission meeting after obtaining a compliance audit from auditor (Donnie); seconded by Commissioner Cunningham; Motion Carried.
- 2007054472 and 2007054471 – Chairman Haynes made a motion to defer to the June Commission meeting after a compliance audit is performed by an auditor (Mike); seconded by Commissioner Cunningham; Motion Carried.
- 2007054101 – Commissioner Alexander made a motion to defer to the June Commission meeting after a compliance audit is performed by an auditor (Mike); seconded by Commissioner Collins; Commissioner Flitcroft abstained; Motion Carried.
- 2007051482 and 2007051481 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Greene; Motion Carried.
- 2007054231 – Commissioner Collins made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.
- 2007048151 – Commissioner Cunningham made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.
- 2007047732 and 2007047731 – Chairman Haynes made a motion to send an auditor (Eddie) with a Consent Order for each (broker and affiliate) with a civil penalty of \$2500.00 each and/or they may both appear for a formal hearing with the Commission; seconded by Commissioner Cunningham; Motion Carried.
- 2006044852 and 2006044851 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Greene; Motion Carried.
- 2006046301 – Commissioner Cunningham made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- 2006045781 – Commissioner Cunningham made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.
- 2006046332 and 2006046331 – Chairman Haynes made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- 2007047871 – Commissioner Flitcroft made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.
- 2006038921 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Collins; Motion Carried.
- 2006038872 and 2006038871 – Commissioner Cunningham made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.
- 2006033741 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Greene; Motion Carried.
- 2007051311 – Chairman Haynes made a motion to defer to the June Commission meeting after a compliance audit is performed by an auditor (Eddie); seconded by Commissioner Tate; Motion Carried.

- **2007049021 – Commissioner Collins made a motion to dismiss; seconded by Chairman Haynes; Motion Carried.**
- **2007047721 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Alexander; Motion Failed; After discussion, Commissioner Alexander made a motion to defer to the June meeting after a compliance audit is performed by an auditor (Eddie); seconded by Commissioner Cunningham; Motion Carried.**
- **2006042761 – Commissioner Greene made a motion send a Consent Order for each (broker and affiliate) with a civil penalty of \$5000.00 each and/or they may both appear at a formal hearing with the Commission; seconded by Chairman Haynes; Commissioner Alexander abstained; Motion Carried.**

Commissioner Cunningham made a motion that if a Commissioner brings an infraction to the attorney that needs to be investigated, it will be flagged and brought back to the Commission the following month with a report; seconded by Chairman Haynes; Motion Carried.

Commissioner Stephenson made a report on the ARELLO Conference he attended in April with Chairman Haynes. **Commissioner Collins made a motion that the full Commission pursue attendance at all future meetings, including upcoming meetings in New Orleans, LA in July 2007 and in New York, NY in September 2007 to be paid from the Recovery fund; seconded by Commissioner Cunningham; Motion Carried.**

Commissioner Flitcroft made a statement regarding Barney Thompson, recently deceased, Executive Vice President and CEO of the Knoxville Area Association of Realtors and TREC's 2004 Educator of the Year. **Commissioner Flitcroft made a motion that the Commission create and place a plaque honoring Mr. Thompson at the Knoxville Association office and another plaque at the new TAR office opening May 12; seconded by Commissioner Collins; Motion Carried.**

Education Report: Dr. Kathy Riggs, Education Director

Dr. Riggs presented courses for Commission evaluation (**Exhibit 4**). There were two courses up for discussion: "Feng Shui for Real Estate Agents" and "Home Inspection Reports". **Chairman Haynes made a motion to approve all courses but to defer approval of the two courses under discussion until the June 2007 Commission meeting; seconded by Commissioner Cunningham; Motion Carried.**

Dr. Riggs presented instructors for review (**Exhibit 5**).

- **Thomas Casey – Chairman Haynes made a motion to deny the request for the instructor to teach the Affiliate Pre-licensing Course and the Course for New Affiliates; seconded by Commissioner Collins; Commissioner Flitcroft abstained; Motion Carried.**
- **Norma Alred - Chairman Haynes made a motion to deny the request for the instructor to teach the Affiliate Pre-licensing Course and the Course for New Affiliates; seconded by Commissioner Alexander; Chairman Haynes and Commissioners Cunningham, Stephenson, Alexander, Tate voted to**

deny; Commissioners Collins and Greene voted to approve; Commissioner Flitcroft abstained; Vote 5-2/1; Motion Carried.

Dr. Riggs presented the Affiliate Broker Performance Report for First Time Test Takers **(Exhibit 6)**. **Commissioner Collins made a motion that schools with 50 or more test takers, cumulative, who score less than 70% on either portion of the test, state or national, be placed on probation until the next reporting period (a quarter) effective immediately based on current pass/fail rates; seconded by Chairman Haynes; Motion Carried.**

Dr Riggs presented a foreign transcript for review **(Exhibit 7)**. **Commissioner Collins made a motion to accept Mr. Sibil Enzugusi's foreign transcript from Kenya. Mr. Enzugusi does not need to take the Pre-licensing course, but he must take the Course for New Affiliates and the examination; seconded by Chairman Haynes; Motion Carried.**

Executive Director's Report- Donna Hancock, Interim Executive Director

Ms. Hancock presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 8)** – TREC has a total of 410 open complaints. There are 30 new complaints since the April meeting. Commissioner Cunningham questioned Ms. Hancock regarding the increase in complaints from last month. Ms. Hancock explained that many of the new complaints were staff generated (violations). There are 308 complaints in the legal department and 108 open complaints in the TREC office awaiting response. The total closed complaints for the current Fiscal Year is 236.

There was a discussion regarding the complaint process. It is the consensus of the Commission that the older complaints should be addressed first by the staff attorney and the Commission. The Commission requested that the original month and the year of the complaint be added to the legal report. Chairman Haynes raised concerns regarding the large number of complaints heard by the Commission over which they hold no authority. Ms. Hancock explained that if a written complaint comes into TREC, she is required to establish it as a complaint, send it for response, and bring it to the Commission.

- **Auditor Summaries of Productivity (Exhibit 9)** – Ms. Hancock advised the Commission that she has sent a memo to all four auditors advising them that she would not approve any home office work hours over five hours per week (unless she assigns them a specific assignment) without a report explaining why they are working from home.
- **Auditor Follow Up Report on Expired Firms and Principal Brokers (Exhibit 10)** – 120 Brokers and 11 Firms were contacted by TREC auditors regarding their delinquent status. Of the 11 firms contacted; 4 firms did not intend to renew the license, 2 had already reinstated, and the remaining five firms were closed. Of the Principal Brokers, half are in the process of reinstating or have reinstated.

- **Longevity Award Program (Exhibit 11)** - Ms. Hancock presented the breakdown by county of all recipients of the longevity award with 40 plus years service. Middle Tennessee has 160 recipients, West Tennessee has 98 recipients, and East Tennessee has 114 recipients. A mock certificate was presented for the Commission's consideration along with a cost summary prepared by staff. Ms. Hancock requested that Commissioner Cunningham send Ms. McDermott an example certificate for 40 plus years of service. It is the consensus of the Commission that the East Tennessee breakfast be held first since Commissioner Greene will be leaving his Commission post this summer. The Commissioners will continue to investigate locations and cost for their respective regional banquets. The six out of state recipients will be sent their awards in the mail.
- **TREC Manuals (Exhibit 12) – Commissioner Cunningham made a motion to defer the discussion of the TREC manuals to the next morning; seconded by Commissioner Collins; Motion Carried.**

Commissioner Alexander asked Ms. Hancock why the Commission has not received a copy of the Education and Recovery Fund Audit as he requested. Ms. Hancock explained that the information had been compiled by the Fiscal Department and was in the legal department for review. She has been informed by Assistant Commissioner Meredith Sullivan's office that the report would be available tomorrow, May 3.

The Tennessee Real Estate Commission recessed for the day at 3:30 p.m.

TENNESSEE REAL ESTATE COMMISSION MINUTES May 3, 2007

The Tennessee Real Estate Commission reconvened on May 3, 2007, in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, and Commissioner David Flitcroft. Commissioner Isaac Northern and Commissioner Adren Greene were absent. Chairman Charles Haynes left the commission meeting at noon. Others present: Donna Hancock, Interim Executive Director, Ryan Bane, staff attorney, and Kelly McDermott, Administrative Secretary.

Rule Making Hearing (Exhibit 13)

At 9:15 a.m., Chairman Haynes called the Rule Making Hearing to order. The following Commissioners were present: Chairman Charles Haynes, Vice Chairman William (Bear) Stephenson, Commissioner Gary Cunningham, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, and Commissioner David Flitcroft.

Ryan Bane, staff attorney for the Tennessee Real Estate Commission, explained the procedures for the Rule Making Hearing. The Proposed Rules were read into the record by Mr. Bane. Ms. Donna Hancock, Interim Executive Director of the Tennessee Real Estate Commission read into the record letters from the Tennessee Association of Realtors (TAR), the Memphis Area Association of Realtors (MAR), and the Chattanooga Association of Realtors (CAR). In addition, Ms. Hancock read into the record letters from various members of the real estate industry and the public.

The following members of the public addressed the Commission with oral comments: Ms. Marcia Franks – Principal Broker of Franklin Realtors; Mr. Richard Clemmer – Owner of D&D Real Estate School; Ms. Christie Wilson – Principal Broker of The Wilson Group; Ms. Fontaine Taylor - Principal Broker of Coleman-Etter-Fontaine, Realtors; Mr. Mike Nichols - Principal Broker of Prudential Woodmont Realty Group (Nashville); Mr. Bob McCalla – Principal Broker of Corporate Realty Advisors; Mr. J. A. Bucy – Director of Governmental Affairs for TAR; Ms. Marilyn Menka – Principal Broker of Prudential Woodmont Realty Group (Brentwood); Mr. Jim Gibbs – Principal Broker of Ideal Realty; Mrs. Grace Kroeger – Principal Broker of Magnolia Realty Company; and Mr. Scott Boles – Principal Broker of Crye-Leike of Nashville (Murfreesboro). The Commission responded to the public as they made their comments. The Rule Making Hearing concluded and the Commission took the public comments under consideration.

Commissioner Alexander made a motion to approve all proposed rules as written; seconded by Commissioner Stephenson; Motion Carried.

Following is a list of all proposed rules: Rule 1260-01-.01, Rule 1260-01-.1, Rule 1260-01-.15, Rule 1260-02-.01, Rule 1260-02-.33, Rule 1260-02-.37, Rule 1260-05-.01, Rule 1260-05-.03, Rule 1260-05-.07, Rule 1260-05-.11, and Rule 1260-05-.16.

The Rule Making Hearing adjourned at 11:00 a.m.

Applicant/Licensee Requests (deferred from previous day)

Melissa Hall, applicant – Ms. Hall, an applicant for an Affiliate Broker license, requested that the Commission consider her request for a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve her request for a waiver of the 50-mile rule; seconded by Commissioner Alexander; Motion Carried.**

Cynthia W. Upchurch, applicant – Ms. Upchurch, an applicant for a Timeshare Salesperson license, requested that the Commission consider her request for a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve her request for a waiver of the 50-mile rule; seconded by Commissioner Alexander; Motion Carried.**

Robert Latella, applicant – Mr. Latella, an applicant for a Timeshare Salesperson license, requested that the Commission consider his request for a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve his request for a waiver of the 50-mile rule; seconded by Commissioner Alexander; Motion Carried.**

Shanna Alder, applicant - Ms. Alder, an applicant for a Broker license, requested that the Commission consider her request for a waiver of the 50-mile rule. **Commissioner Collins made a motion to approve her request for a waiver of the 50-mile rule; seconded by Commissioner Alexander; Motion Carried.**

Executive Directors Report (deferred from yesterday)

- **TREC Manuals**

Commissioner Cunningham made a recommendation to the Commission that any decisions regarding the distribution of TREC manuals be deferred until the June meeting since U.S.P.S rates are going to increase on May 14, 2007. Commissioner Cunningham will present new cost estimates for the distribution of the TREC manuals at the June Commission meeting. **Commissioner Alexander made a motion to defer the discussion of TREC manual distribution to the June Commission meeting; seconded by Commissioner Collins; Motion Carried.**

Comments from Ryan Bane, Staff Attorney

Ryan Bane stated he had heard that there may be some RBS problems in tracking education course completion, specifically the required 8 hours at a Commission meeting per the Policy on Reinstatement. Ms. Hancock assured him that tracking course completion in RBS is not a problem, however, the problem may lie in the enforcement of the completion of the continuing education and the repercussions for non-compliance. **Commissioner Alexander made a motion to defer the discussion of enforcement until the June Commission meeting; seconded by Commissioner Tate; Motion Carried**

The next order of business was a discussion of the violators of TREC's Errors and Omissions policy requiring all active brokers to have E & O Insurance. Ryan Bane, staff attorney, stated that he had concerns about sending an Agreed Citation to all 4000 brokers in violation of the policy as it may lead to many contested hearings. Ms. Donna Hancock, Interim Executive Director, suggested that many of the violators may be able to provide proof of E&O insurance as it may have simply been an oversight on their part in failing to send the insurance certificate at renewal. Ms. Hancock also expressed concern about the cost of sending 4000 certified letters and she suggested that TREC send the letters to the Principal Brokers of all licensees in violation. **Commissioner Cunningham made a motion to send a notice to the Principal Broker of non-compliant brokers and affiliates and explain to them that proof of E&O insurance must be provided by May 31, 2007 or TREC will take disciplinary action to be determined by the Commission; seconded by Commissioner Alexander; Motion Carried.** Commissioner Collins suggested that TAR run an article in their newsletter regarding the importance of holding a current E&O insurance policy and explaining that TREC will be contacting all brokers in violation of the policy. Russ Farrar, attorney for TAR, confirmed he would take that suggestion to TAR. Ms. Hancock requested that the Commission begin to consider a long term solution to the problem of enforcement of the E&O policy. She stated that because of the staggered renewal cycle, an ongoing enforcement practice needs to be set out for someone whose E&O insurance lapses (i.e. a rule or law change stating that if there is a lapse in E&O insurance, the license

would be immediately suspended with 30 days to reach compliance or disciplinary action will ensue).

Commissioner Collins made a motion to add Bobby A. Martin, licensee # 6811, to the recipients for the longevity award as he had 56 years of service to the real estate industry prior to the expiration of his license in December 2006; seconded by Commissioner Flitcroft; Motion Carried.

Commissioner Reports

Vice-Chairman Stephenson called for the Commission Reports.

Commissioner Cunningham congratulated staff, Donna Hancock, Ryan Bane, and Kelly McDermott, on a job well done in preparing for the May meeting.

Ms. Hancock stated that the Audit of the Education and Recovery Fund has been distributed to the Commission and suggested they review the audit and return to next month's meeting with any questions. Commissioner Alexander agreed with this recommendation. **Vice-Chairman Stephenson requested that the Audit of the Education and Recovery Fund be added to the agenda for the June 2007 meeting.**

Comments from Attendees

Vice-Chairman Stephenson called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits and comment at the Rule Making Hearing appeared before the Commission and gave statements regarding what they had learned from the meeting.

Vice-Chairman Stephenson adjourned the Commission Meeting May 3, 2007 at 12:10 p.m.